

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
AIDA MARKISIC,

Case No. 08-cv-05478

Plaintiff,

JUDGE ROBINSON

-against-

MAGISTRATE SMITH

THE YANKEE SYSTEMS, INC., JOSEPH
FISCHBEIN, PARTRIDGE & PARTRIDGE
REALTY CORP., CHRIS PARTRIDGE,
WESTERMAN, BALL, EDERER, MILLER
& SHARFSTEIN, LLP, PHILIP J. CAMPISI,
JR., ACME REALTY INC., ANTONIO HECTOR
AUGUSTI and HEWES STATION, LLC,

Defendants.

-----X

**PLAINTIFF'S MEMORANDUM OF LAW
IN OPPOSITION TO MOTION BY DEFENDANTS
THE YANKEE SYSTEMS, INC. AND JOSEPH FISCHBEIN
TO DISMISS AMENDED COMPLAINT FOR FAILURE
TO STATE A CAUSE OF ACTION**

Gerald Orseck,
Of Counsel

ORSECK LAW OFFICES PLLC
Attorneys for Plaintiff
1924 State Route 52, P.O. Box 469
Liberty, NY 12754
(845) 292-5800

I. INTRODUCTORY STATEMENT

The defendants Yankee Systems, Inc. and Joseph Fischbein (hereafter "Yankee/Fischbein") move to dismiss the amended complaint by motion papers served and filed electronically on August 15, 2008. The motion is identical to a motion now pending before this Court filed by their co-defendants Partridge & Partridge Realty Corp., Chris Partridge, and Hewes Station, LLC (hereafter "Partridge/Hewes").

II. ARGUMENT

Because the issues raised by Yankee/Fischbein in their motion to dismiss are identical to those raised by Partridge/Hewes, plaintiff requests that its papers served and filed in opposition to the Partridge/Hewes co-defendants' motion to dismiss be read and considered by this Court in opposition to the instant Yankee/Fischbein motion.

III. CONCLUSION

For the same reasons urged by the plaintiff in its memorandum of law dated August 6, 2008 filed in opposition to the motion to dismiss by co-defendants Partridge/Hewes, the motion to dismiss by defendants Yankee/Fischbein should be denied.

Dated: Liberty, New York
August 18, 2008

Respectfully submitted,

ORSECK LAW OFFICES PLLC

By: 

Gerald Orseck (GO9913)
Attorneys for Plaintiff
PO Box 469
Liberty, NY 12754
(845)292-5800